IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

WP(C).No. 7164 of 2007(C)

PETITIONER:

MERCHANTS ASSOCIATION THALAYOLAPARAMBU,
THALAYOLAPARAMBU, KOTTAYAM DISTRICT, REPRESENTED
BY ITS GENERAL SECRETARY.

BY ADV. SRI.P.P.JACOB
SRI.B.MANIMOHAN

RESPONDENTS:

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1. THALAYOLAPARAMBU GRAMA PANCHAYAT,
THALAYOLAPARAMBU, KOTTAYAM DISTRICT,
REP. BY ITS SECRETARY.

2. COMMITTEE OF THE THALAYOLAPARAMBU GRAMA
PANCHAYAT, THALAYOLAPARAMBU, KOTTAYAM,
REP. BY ITS PRESIDENT.

ADDL. R3 IMPLEADED.

3. K.N. SASIDHARAN,
KUTTIPPALAKKAL HOUSE,
THALAYOLAPARAMBU,
KOTTAYAM DISTRICT.

ADDL. R3 IS IMPLEADED VIDE ORDER DT. 4.4.2007 IN I.1.4876/2007.

BY ADV. SRI.LAL GEORGE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No. 7164 of 2007

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Dated this the 23rd day of July, 2007

JUDGMENT

Petitioner is a Merchants' Association. They participated in an auction conducted as per Ext.P1 by the respondent Panchayat for getting the right to collect rental from the vegetable market as well as other items mentioned in the notice. Petitioner became the highest bidder as it quoted Rs.1,11,111/-. By Exts.P2 and P3 pursuant to the confirmation petitioner had remitted the amount as well as the rental, which was accepted, petitioner contends. According to the petitioner the Panchayat has accepted the tender and confirmed the auction and the contract is conclusive. By Ext.P4 Panchayat took a decision to cancel the auction confirmed in favour of the petitioner is petitioner's further case. In Ext.P4 it is stated that as the amount is very low, it is not regularised by the Committee and it is decided to go in for re-auction. Petitioner challenges Ext.P4 and seeks a direction to allow the petitioner to function as the authorised person to collect the rent as per Ext.P1.

2. In the counter affidavit filed by the first respondent it is stated that the amount being low it was decided to go in for re-auction. The Panchayat Committee took a decision to conduct re-auction as the quotation offered by the petitioner was very low and there was an unanimous opinion that if a re-auction is conducted, it would fetch higher amount. It is stated that re-auction was conducted and the Panchayat Committee decided to accept the highest bid. The highest bid is marginally higher than the amount got in the first auction.

3. Petitioner has produced Ext.P5, the details of the auction as well as the remittance of the amount for the earlier periods. According to the learned counsel for the petitioner the Panchayat is seen to have waived the amounts arbitrarily. Reply affidavit is filed by the petitioner pointing out inter alia that the amount for which it is re-auctioned in favour of the additional respondent is very low.

4. I heard learned counsel for the parties.

5. Counsel for the petitioner points out that under Clause I of Ext.P1 there has to be a temporary confirmation in favour of the highest bidder and that has happened in the case of the petitioner and it

is not correct to say that the auction was not confirmed. Counsel for the respondent points out that under Clause IV there has to be acceptance by the Committee to confirm auction.

6. I am of the view that in view of the unanimous decision taken by the Committee not to accept the bid of the petitioner, it cannot be said having regard to Clause I and IV auction has been confirmed in favour of the petitioner. Apparently the bid of the petitioner was found to be very low. The Panchayat Committee decided to go in for a re-auction. It may be true that the amount quoted in re-auction is only marginally higher than the amount quoted by the petitioner. But the question to be considered in this case is whether petitioner has any legal right because he is the highest bidder. It is clear that the petitioner has no legal right as claimed by it. All that Clause I contemplated is that there is a temporary confirmation. This is subject to the final confirmation under Clause IV, which in the facts of this case has not taken place. Thus all that has happened is that the petitioner is the highest bidder and there is temporary confirmation and the Panchayat Committee decided not to confirm it and decided to go in

for re-auction. It cannot be said that the decision to go in for re-auction is unwarranted as the amount quoted by the petitioner is very low. So the decision making process, which is under challenge, cannot be said to be vitiated. In such circumstances, there is no merit in this writ petition. It is dismissed.

7. It is then pointed out by the learned counsel for the petitioner that the petitioner had deposited certain amounts as per Exts.P2 and P3 and the said amounts were deposited in the Bank and that may be ordered to be returned with the accrued interest.

There will be a direction, notwithstanding the dismissal of the writ petition, to the first respondent to return the amount deposited by the petitioner with any interest that the deposits may have earned within a period of one month from the date of receipt of a copy of this judgment.

(K.M. JOSEPH, JUDGE)

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